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**\*E-FILED - 10/28/08\***

Attorneys for Defendant **Allen Tam**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	CR 06-0208 RMW
	)	
Plaintiff,	)	
	)	<b>STIPULATION TO CONTINUE</b>
v.	)	<b>SENTENCING HEARING AND</b>
	)	<b><del>PROPOSED</del> ORDER THEREON</b>
ALLEN TAM,	)	
	)	Date: October 27, 2008
Defendant.	)	Time: 9:00 a.m.
	)	Ctrm: 6

**IT IS HEREBY STIPULATED** by and between the parties that the sentencing hearing, currently set for October 27, 2008 at 9:00 a.m., be changed to January 12, 2009 at 9:00 a.m.

The reasons for the stipulation are as follows:

1. Mr. Tam's counsel recently concluded a trial which lasted almost one month in People v. Garcia, Case No. SCR521234 in the Superior Court for Sonoma County.

2. Mr. Tam and his counsel met approximately six days ago to review, in detail, the probation report and the government's sentencing memorandum and recommendations.

3. The plea agreement calls for Mr. Tam to be permitted to factually and legally contend that the amount of loss, which the government and United States Probation calculates as over \$25,000, is as low as \$5001.

1 4. The plea agreement calls for Mr. Tam to be permitted to  
2 factually and legally contend the he should not receive an  
3 adjustment for role under U.S.S.G. Section 3B1.2, as recommended  
4 by United States Probation and the government.

5 5. The plea agreement calls for Mr. Tam to be permitted to  
6 factually and legally argue that, under 18 U.S.C. Section  
7 3553(a), he should not be committed to jail.

8 6. The factual and legal presentation, in view of the  
9 magnitude of the file and discovery requires extensive  
10 preparation by the defense. Because the government is requesting  
11 jail time, it is important that Mr. Tam be appropriately  
12 represented by counsel, and the parties agree that Mr. Tam and  
13 defense counsel should be afforded appropriate and necessary time  
14 to prepare for the hearing.

15 IT IS SO STIPULATED.

16 KEVIN V. RYAN

17 United States Attorney

18 Dated: October 21, 2008

By:

19 /s/ Kyle F. Waldinger  
20 Kyle F. Waldinger  
21 Assistant United States Attorney


22 Dated: October 21, 2008

By:

23 /s/ David J. Cohen  
24 David J. Cohen  
25 Attorney for Defendant Allen Tam

26 IT IS SO ORDERED.

27 Dated: 10/28/08

28  FOR  
THE HONORABLE RONALD M. WHYTE  
UNITED STATES DISTRICT COURT JUDGE